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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, NOVEMBER 22, 2000

PETITION OF

AT&T COMMUNICATIONS OF VIRGINIA,  
INC.,  
TCG VIRGINIA, INC.,  
and  
NATIONAL TELECOM CORP.

CASE NO. PUC000261

For declaratory judgment

and

APPLICATION OF

AT&T COMMUNICATIONS OF VIRGINIA,  
INC.,  
TCG VIRGINIA, INC.,  
ACC NATIONAL TELECOM CORP.,  
MEDIAONE OF VIRGINIA,  
and  
MEDIAONE TELECOMMUNICATIONS OF  
VIRGINIA, INC.

CASE NO. PUC000282

For arbitration of interconnection  
rates, terms and conditions, and  
related arrangements with Verizon-  
Virginia Inc. pursuant to Section  
252(b) of the Telecommunications  
Act of 1996

ORDER

On September 25, 2000, AT&T Communications of Virginia,  
Inc., TCG Virginia, Inc., and ACC National Telecom Corp.  
(collectively "AT&T"), filed a petition for declaratory judgment  
seeking a ruling on whether the Commission would decline to  
arbitrate, in accordance with §§ 251 and 252 of the

Telecommunications Act of 1996 ("the Act"), issues that remain unresolved in negotiations between AT&T and Verizon Virginia Inc. ("Verizon") for a new interconnection agreement. That case was docketed as Case No. PUC000261. Verizon filed a response to AT&T's petition on October 2, 2000, and AT&T filed a reply to Verizon's response on October 10, 2000.

Before the Commission could rule on AT&T's petition, on October 20, 2000, AT&T Communications of Virginia, Inc., TCG Virginia, Inc., ACC National Telecom Corp., MediaOne of Virginia, and MediaOne Telecommunications of Virginia, Inc. (again, collectively "AT&T"), filed a petition for arbitration of interconnection rates, terms, conditions, and related arrangements with Verizon pursuant to § 252(b) of the Act. On November 14, 2000, Verizon filed its Answer to AT&T's petition.

Until the issue of Eleventh Amendment immunity from federal appeal under the Act is resolved by the Courts of the United States, we will not act solely under the Act's federally conveyed authority in matters that might arguably implicate a waiver of the Commonwealth's immunity, including the arbitration of rates, terms, and conditions of interconnection agreements between local exchange carriers.

As discussed in our Order of June 15, 2000, in Case No. PUC990101,<sup>1</sup> the Commission has authority under state law to order interconnection between carriers operating within the Commonwealth, and § 56-38 of the Code of Virginia authorizes us, upon request of the parties, "to effect, by mediation, the adjustment of claims, and the settlement of controversies, between public service companies, and their employees and patrons." Further, our rules codified at 20 VAC 5-400-180 as "Rules governing the offering of competitive local exchange telephone service" anticipate that we would address interconnection issues under the authority of the Virginia Code. Rules 20 VAC 5-400-180 F 5 and 6 specifically provide for our "arbitration" of contested matters.

The parties may elect to proceed with AT&T's arbitration under the Act before the Federal Communications Commission in lieu of this Commission, or the parties may pursue resolution of unresolved issues pursuant to 20 VAC 5-400-180 F 6. If AT&T wishes to pursue this matter before the Commission, the proceeding before us will be deemed to be requesting our action only under authority of Virginia law and our Rules.

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<sup>1</sup> Petition of Cavalier Telephone, LLC, For arbitration of interconnection rates, terms and conditions, and related relief, Document Control Center No. 000630199.

Accordingly, IT IS ORDERED THAT:

(1) AT&T shall, within fifteen (15) days of the date of this Order, advise us in writing whether it wishes to pursue its arbitration request before us, consistent with the findings above.

(2) As a result of AT&T's subsequent petition for arbitration in Case No. PUC000282, AT&T's petition for declaratory judgment filed in Case No. PUC000261 is hereby declared moot.

(3) Case No. PUC000261 is hereby dismissed, and the papers filed herein shall be placed in the file for ended causes.

(4) Case No. PUC000282 is continued for further orders of the Commission.